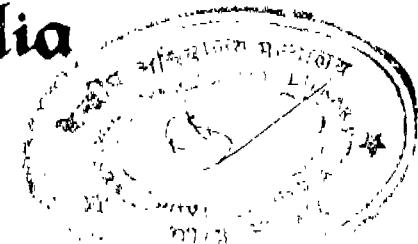




भारत का राजपत्र

The Gazette of India



असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्याएँ जाती हैं जिससे कि यह भाग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
 as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 27th November, 1992:—

BILL NO. 78 OF 1992

A Bill to provide for special financial assistance to the State of Orissa for the welfare of Scheduled Castes and Scheduled Tribes and for the development, exploitation and proper utilisation of the mineral resources.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Special Financial Assistance to the State of Orissa Act, 1992. Short title.

2. There shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Orissa to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Castes and the Scheduled Tribes or for the development and exploitation of the mineral resources in the State. Special financial assistance to the State of Orissa.

3. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force. Application of other laws not barred.

STATEMENT OF OBJECTS AND REASONS

The State of Orissa is also economically backward like the States of Arunachal Pradesh, Assam, Himachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura. The State of Orissa has similar problems, as are being faced by the other States mentioned above, like the welfare of tribals and Scheduled Castes; long coastal line and the strategic geographical situation of the State; non-exploitation of the large deposits of iron ore, coal, manganese, bauxite, etc. for the development of the people of the State because of the continuous floods, droughts and cyclones that occur every year in the State. It is, therefore, necessary that the Central Government should provide some special financial assistance to the State of Orissa for the all-round development of the State including the welfare of Scheduled Castes and Scheduled Tribes and for the development of its vast mineral resources.

Hence this Bill.

NEW DELHI;
March 27, 1992.

ARJUN CHARAN SETHI

BILL No. 111 OF 1992

A Bill to provide for measures to control the increasing population and to encourage small family norm and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Population Control and Family Welfare Act, 1992.	Short title, extent, commencement and application.
(2) It extends to the whole of India.	
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.	
(4) It shall be applicable to all persons residing in India irrespective of their religious belief.	
2. In this Act, unless the context otherwise requires, “appropriate Government” means the Central Government in respect of Union territories and the State Government in respect of a State.	Definition.

**Compul-
sory
sterili-
sation.**

3. Either husband or wife in the case of every married couple who have two or more than two living children, on the date of coming into force of this Act, or whose second living child is born after the commencement of this Act, shall be required to undergo compulsory sterilisation.

Provided that the husband or wife shall not be required to undergo sterilisation if the husband is above the age of sixty years or the wife is above the age of forty-eight years.

**Min-
imum gap
between
birth of
two chil-
dren.**

4. Subject to the provisions of this Act every married couple shall ensure a gap of not less than six years between the birth of their two children.

**Min-
imum age
for sole-
mnisa-
tion or
mar-
riages.**

5. Notwithstanding anything contained in any other law, custom, religion for the time being in force, no marriage shall be solemnised between a male, who is less than twenty-five years of age, and a female, who is less than twenty-one years of age.

**Introduc-
tion of
com-
pulsory
subject
relating
to popu-
lation
control
and
family
Welfare
in educa-
tional
institu-
tions.**

6. (1) The appropriate Government shall introduce a compulsory subject, namely, 'Population Control and Family Welfare' in all educational institutions.

(2) The subject mentioned in sub-section (1) shall be studied by every student from ninth class onwards till graduation level.

(3) It shall be compulsory for every student to pass the subject and till he passes the subject, he shall not be deemed to have passed in the class.

**Provi-
sion of
benefits
to per-
sons who
undergo
sterili-
sation
volun-
tarily**

7. If either the husband or the wife, in the case of a married couple, who have only one child on the date of commencement of this Act, voluntarily undergoes sterilisation, the appropriate Government shall provide them with the following benefits namely:—

(a) allotment of housing accommodation from Government agencies with twenty five per cent rebate on priority basis to the families residing in urban areas and allotment of suitable land with interest free loan not exceeding rupees fifty thousand for constructing the house to families residing in rural areas.

(b) free travel facilities within the country and abroad for such distance and period as may be prescribed by the Central Government;

(c) free education, books and hostel facilities till the graduation level to the child;

(d) provision of appropriate employment to the child within three years of completing his education;

(e) free medical facilities for the child till he is provided with employment;

(f) a monthly pension of rupees one thousand and two hundred to the couple, in the event of death or disablement of the child, after they attain the age of fifty-five years or if they do not have any independent source of income.

8. Any person who violates the provisions of this Act, —

Punish-
ment.

(a) if he is serving in connection with affairs of the Union or Government or in any undertaking or organisation under the control of the Union Government, he shall not be granted his annual increments for a period of three years and shall not be promoted to the next higher post for a period of five years from the date he is found to be guilty of violation of the provisions of this Act.

(b) if he is working in any private organisation ten per cent of his wages shall be deposited by him in the Government treasury;

(c) if he is engaged in agricultural sector or unemployed or self employed he shall be punished with rigorous imprisonment for one year.

9. After section 8A of the Representation of the People Act, 1951, the following section shall be inserted, namely:

Insertion
of new
section
8B in
Act No.
43 of
1951.

"8B. (1) A person shall be disqualified if he procreates more than two living children:

Disqualifi-
cation on
ground
of not
follow-
ing small
family
norm.

Provided that the persons shall not be disqualified if he, within a period of one year from the date of commencement of the Population Control and Family Welfare Act, 1992 procreates another living child and thereby the number of living children of that person increases to more than two.

(2) The disqualification referred to in sub-section (1) shall not apply in case of persons having more than two living children on the date of commencement of the Population Control and Family Welfare Act, 1992."

10. (1) There shall be constituted a fund to be called the National Population Control and Family Welfare Fund by the Central Government.

Constitu-
tion of
National
Popula-
tion
Control
and
Family
Welfare
Fund.

(2) The Central Government and every State Government shall contribute to the fund in such ratio as may be determined by the Central Government.

11. The fund constituted under section 10 shall be utilised for providing benefits under section 7.

Utilisa-
tion of
funds.

Special
provi-
sions
relating
to
persons
pro-
vided
with
employ-
ment
under
this Act.

Act to
have
over-
riding
effect.

Power to
make
rules.

12. Any person who has been provided with employment under this Act and who has only one living child or who has not procreated any child or who is unmarried on the date of coming into force of this Act shall give an undertaking that he shall not procreate more than one living child.

13. The Provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The population of the country is increasing rapidly. As a result of which many problems such as poverty, unemployment, shortage of food, housing and environmental pollution have emerged. Social, economic and political tensions have also increased. No concrete results have been achieved of the family planning measures taken by the Government during the last 40 years. Countries like Malaysia and China have effectively controlled their rapidly increasing population. They have adopted many family welfare programmes. But India has utterly failed in its family welfare programmes. It is estimated that our population will cross one billion mark by the end of the century.

It is, therefore, imperative that effective steps should be taken to arrest the increase in population. Population control is also an effective measure for family welfare. As our sources are limited, the proper up-bringing of the children is possible only when we maintain the size of our family limited and small.

The purpose of this Bill is to make sterilisation obligatory for every person having two or more than two children. Therefore, with a view to developing a sense of small family norm amongst the coming generations, provisions have been made for certain measures such as minimum age for the marriage, provision for benefits for couples voluntarily adopting measures for population control, minimum gap between the birth of two children and penal action for violating the provisions.

The Bill seeks to achieve the above objectives.

NEW DELHI;
May 27, 1992.

RAJNATH SONKAR SHASTRI.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for introduction of a compulsory subject, namely, Population Control and Family Welfare, in all educational institutions. Clause 7 provides for giving benefits to such persons who undergo voluntary sterilisation. Clause 10 provides for constitution of a fund to which the Central Government and the State Governments shall contribute. This Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India.

It is estimated that it is likely to involve a recurring expenditure of about rupees five crores per annum. A non-recurring expenditure to the tune of about rupees fifty lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules which may be made will be of routine and administrative nature, the delegation of legislative power is of a normal character.

BILL No. 160 of 1992

A Bill to provide for special educational facilities to the children of parents living below poverty line and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Educational Facilities (For Children of Parents Living Below Poverty Line) Act, 1992.

Short title and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means the Central Government or the State Government, as the case may be.

(b) “parents living below poverty line” means all such parents whose income from all sources is less than rupees five hundred per mensem; and

(c) “prescribed” means prescribed by rules made under this Act.

Facilities to children born of parents living below poverty line.

3. It shall be the duty of the appropriate Government to provide to every child born of parents living below poverty line, the following facilities, namely:—

(a) free education from school level to the post graduate level including higher medical and technical education;

(b) free hostel facilities, uniform, meals and such other assistance and facilities as are required for the proper education of children; and

(c) gainful employment to the child after he completes his education.

Provision of scholarship to be given to children born of parents living below poverty line.

4. The appropriate Government shall provide scholarships upto a maximum of rupees one thousand per annum, in deserving cases, to the children of parents living below poverty line while they are pursuing their education.

Reservation of seats in medical and technical colleges for children born of parents living below poverty line.

5. The appropriate Government shall reserve such percentage of seats of the total number of seats, as may be prescribed, in all medical and technical colleges and institutions for children born of parents living below poverty line.

Power to make rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Nearly sixty per cent of the total population of our country lives below the poverty line. Their income is meagre and they fight for their subsistence throughout their lives. They have a hand to mouth existence and cannot even think of getting elementary education which may enable them to read and write. Since promotion of universal education and establishment of classless and creedless society is one of the basic aims of our Constitution, the Government at the national level as well as at the State level should make provisions for free educational facilities and provide books, uniform, writing materials, transportation and hostel facilities free of cost to the children of persons living below the poverty line, that is to say, whose total family income is below five hundred rupees per month, so that they could get proper education and have better job opportunities and are able to raise their standard of living. It will also be a major step in eradicating illiteracy from the country and achieving the goals of universalisation of education in our country. It will also help such children to grow and compete with children of higher class.

Hence this Bill.

NEW DELHI;

June 24, 1992.

VENKATESWARA D. RAO.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 6-13/92-PN.1, dated 29 July 1992 from Km. Selja, Deputy Minister in the Ministry of Human Resource Development to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed "The Special Educational Facilities (For Children of Parents Living Below Poverty Line) Bill, 1992" by Shri Venkateswara D. Rao, M.P. recommends to Lok Sabha the consideration of the Bill under article 117(3) of the Constitution of India.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free education including higher medical and technical education, etc. by the appropriate Government to children born of parents living below poverty line. It also seeks to provide for facilities such as free hostel, uniform, meals, etc. to such children. Clause 4 provides that the appropriate Government shall provide scholarships upto a maximum of rupees one thousand per annum, in deserving cases, to such children. The Central Government has to bear the expenditure involved in respect of Union territories. The respective State Governments shall bear the expenditure involved in respect of their States. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure to the tune of rupees three hundred crores is likely to be incurred per annum.

A non-recurring expenditure of rupees one hundred crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only. The delegation of legislative power, therefore, is of a normal character.

BILL No. 113 OF 1992

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1992.	Short title.
2. Articles 356 and 357 of the Constitution shall be omitted.	Omission of articles 356 and 357.

STATEMENT OF OBJECTS AND REASONS

Articles 356 and 357 of the Constitution were expected to be invoked as a last resort for maintaining law and order in a State. But these articles have been used to get the Legislative Assembly of a State dissolved and put the State under President Rule whenever the ruling party in the centre does not find the State Government loyal to it. This has become a practice with the Central Government. As such, it is necessary to omit these articles with a view to save the autonomy which the States enjoy.

Hence this Bill.

NEW DELHI;

VENKATESWARA D. RAO.

June 26, 1992.

BILL No. 118 OF 1992

A Bill to provide for total prohibition and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Prohibition Act, 1992.	Short title and extent.
(2) It extends to the Union territories only.	
2. The Central Government shall, with effect from the commencement of this Act, impose and enforce total prohibition in the Union territories.	Imposition of prohibition in Union territories.
3. No person shall manufacture, sell, purchase, distribute or consume alcohol or any other intoxicating drinks.	Banning of manufacture, etc., of intoxicating drinks.
4. Any person violating the provisions of section 3 shall be punished with imprisonment for a term not exceeding five years or with fine not exceeding rupees five thousand or with both.	Punishment.
5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.	Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Law and order situation is deteriorating day by day in our country. Incidents of rape and molestation of women are increasing. Motor vehicle accidents are also increasing. In most of these cases consumption of liquor is found to be the main cause behind such mishaps. Liver, gastric and other health disorders are caused by liquor consumption. A large number of deaths occurred in the States of Orissa, Maharashtra and Tamil Nadu and Union territory of Delhi due to consumption of illicit liquor.

Therefore, it is high time that a legislation is brought forward for imposing total prohibition in the Union territories in the first instance. Thereafter, the States may also follow suit and impose total prohibition.

Hence this Bill.

NEW DELHI;
June 26, 1992.

VENKATESWARA D. RAO.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL No. 124 of 1992

A Bill to provide for a comprehensive policy for the development of the youth in the country.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Youth Welfare Act, 1992

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent
and com-
mence-
ment.

2. In this Act, unless the context otherwise requires,—

(a) 'appropriate Government' means in case of a State, the State Government and in the case of a Union territory, the Union Government;

Defini-
tions.

(b) 'youth' means all persons between fourteen and thirty years of age; and

(c) 'youth organisation' means an organisation of youth which provides for universal membership, without any discrimination on the basis of race, religion, language, caste or sex and the constitution of which provides for its democratic functioning in respective States or Union territories, as the case may be.

Compulsory and free education.

3. The appropriate Government shall provide to the youth—

(a) compulsory and free education including technical education;

(b) materials like books, stationery, etc. free of cost;

(c) pocket allowance ranging between rupees fifty to rupees one hundred per month depending upon the age of the youth;

(d) free hostel facilities;

(e) scholarships and incentives to deserving students; and

(f) free transport facilities.

Sports facilities for the youth.

4. The appropriate Government shall provide—

(a) intensive training in sports to every youth;

(b) facilities to the youth for participation in sports activities both within and outside the country;

(c) representation to youth organisations in sports associations and other similar bodies; and

(d) for the welfare of a youth, who represents the country in any sports event, throughout his life time.

Provision of nutritious meals to students.

5. The appropriate Government shall provide nutritious meals free of cost to all students in schools, colleges, universities and hostels and in technical institutions.

Medical care to the youth.

6. The appropriate Government shall provide medical and health care to the youth free of cost.

Training of youth in trade, vocation, etc.

7. The appropriate Government shall evolve a scheme under which young girls and boys shall be imparted modern training in apprenticeship in trades, vocations, etc. in factories and vocational institutions.

Appointment of expert Committees.

8. The appropriate Government shall appoint an expert committee in every district consisting of eminent educationalists, doctors, psychologists to recommend the type of education or training in any vocation that is to be imparted to a boy or a girl of the village district after he or she has passed the tenth class examination.

9. The appropriate Government shall provide employment to the youth after their education or training or such amount as unemployment allowance, as may be fixed by the Central Government, in lieu thereof, till they are provided with employment.

Provision
of em-
ployment
to youth.

10. (1) The Central Government shall provide military training to all able-bodied youth and it shall be compulsory for the youth to pass in such training.

Military
training
to youth.

(2) The Central Government shall give preference to all youth who have passed military training under sub-section (1) for employment under defence services.

Power to
make
rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Even after four decades of independence, no clear cut youth policy has been laid down so far in our country. The education should be the right of the youth and not a privilege of a few and the employment should be guaranteed to them. The youth should be linked directly with the production process. The disparities between rural and urban youth should be eliminated gradually. The youth today is also facing serious health problems, absolute inadequacy in sports and cultural facilities. Youth belonging to Scheduled Castes and Scheduled Tribes and other backward classes are still reeling under extreme poverty. There is no proper planning for the youth in respect of their comprehensive development, proper utilisation of their energies and proper method of education. A comprehensive youth policy for their alround development is, therefore, absolutely necessary.

Hence this Bill.

NEW DELHI:

VENKATESWARA D. RAO.

June 29, 1992.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide compulsory and free education to the youth. It further provides for supply of materials like books, stationery etc. free of cost, provision of pocket allowance, free hostel and transport facilities and scholarships to youth. Clause 4 provides that appropriate Government shall provide facilities to youth for their participation in sports activities. Clause 5 provides that the appropriate Government shall provide nutritious diet to all students in schools, colleges, universities and hostels. Clause 6 provides for health and medical care of the youth by the appropriate Government. Clause 7 provides that the appropriate Government shall evolve a scheme under which youth will be given training in factories and vocational institutions. Clause 8 provides for appointment of expert committees to recommend the type of education that is to be imparted to youths. Clause 9 provides that the appropriate Government shall be responsible for providing employment to all youth or unemployment allowance, as may be prescribed, till they are provided with employment. Clause 10 provides for military training to all able-bodied youth.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India in respect of Union territories. The State Governments will incur expenditure from their respective Consolidated Funds in respect of their States supplemented by assistance from the Central Government.

An annual recurring expenditure of about rupees one hundred and fifty crores is likely to be incurred from the Consolidated fund of India.

A non-recurring expenditure of about rupees three crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL No. 153 of 1992

A Bill further to amend the Hindu Marriage Act, 1955.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Hindu Marriage (Amendment) Act, 1992.	Short title and commen-cement.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.	
2. In section 5 of the Hindu Marriage Act, 1955 (hereinafter referred to as the principal Act), after clause (v), the following clauses shall be inserted, namely:—	Amend-ment of section 5.
“(vi) the parties have neither taken nor given dowry and have also neither taken nor given any price for the bridegroom or the bride;	
(vii) there has been no consideration of the language, region, colour, caste or sub-caste of the parties to the marriage.”.	

Substitution
of new
section for
section 7.

Rituals of
a Hindu
marriage.

3. For section 7 of the principal Act, the following section shall be substituted, namely:—

“7. (1) Hindu marriage may be solemnised either at the house of the bridegroom or the bride or at the house of any of their relatives or friend or in some public building or at a public place, place of worship or at some such place which is neat and clean and where witnesses to the marriage can go without any fear.

(2) A minimum of five witnesses who may be relatives, friends or persons known to either party to the marriage or any other respectable persons who had never been punished for any offence, shall be required to be present at the time when rituals to the marriage are undergone.

(3) The marriage shall be complete and binding on the parties after—

(a) the bride and the bridegroom declare each other to be the husband and wife in the presence of witnesses and, while so declaring, the bride and the bridegroom shall also declare that they are entering into wedlock without any pressure; fear or temptation:

Provided that the declaration shall be made by the parties to the marriage in a language which is understood by both the parties; and

(b) the bride and bridegroom exchange garlands or rings.

(4) The parties to the marriage and the witnesses thereof shall sign the marriage declaration certificate which shall be prepared in duplicate and in accordance with the Schedule.

(5) It shall not be compulsory for the parties to the marriage to get their marriage registered but, however, the parties shall be eligible to get their marriage registered under section 8, on the basis of marriage declaration certificate.

(6) Any marriage performed according to the customary rites and ceremonies of either party to the marriage, after the coming into force of the Hindu Marriage (Amendment) Act, 1992, shall be null and void but, however, if a man and a woman declare that they have been living together as husband and wife and also apply for registration of their marriage under section 8, the marriage shall be registered on the basis of the declaration and the date of marriage shall be deemed to be the date so declared by the two parties.

(7) All marriage performed according to the customary rites and ceremonies before the coming into force of the Hindu Marriage (Amendment) Act, 1992, shall be valid.”.

Amend-
ment of
section 11.

4. In section 11 of the principal Act, for the words “(iv) and (v) of section 5”, the words “(iv), (v), (vi) and (vii) of section 5” shall be substituted.

THE SCHEDULE

[See Section 7(4)]

Marriage Declaration Certificate

We, declare that we accept each other as husband and wife and do swear to lead life jointly according to social and legal traditions and we will cooperate with each other fully in good and bad days.

Signature or Thumb impression

Groom: Name.....

Signature or Thumb impression

Bride: Name.....

Father.....

Father.....

Address.....

Address.....

Age.....

Age.....

Date.....

Date

We, the following witness declare that we are present on the occasion of marriage of the said groom and bride and the marriage has been solemnised with the consent of both without any coercion or fear.

Witness 1.....

Witness 2.....

Signature or Thumb impression

Signature or Thumb impression

Name.....

Name.....

Son.....

Son.....

Address.....

Address.....

Age.....

Age.....

Witness 3.....

Witness 4/5.....

Signature or Thumb impression

Signature or Thumb impression

Name & Address

Name & Address

[Two copies of this declaration shall be prepared and the same can either be hand written, typed or printed. Both the copies shall be equally authentic and either of the two copies shall be legally valid.]

STATEMENT OF OBJECTS AND REASONS

Since time immemorial Hindu marriage has been treated as a sacrament but due to provision of divorce it cannot now be treated as irrevocable. Now the wife has got the right to get the husband punished for matrimonial offences which means the nature of Hindu marriage has now completely changed. So, in this situation, it is not correct to make it obligatory to perform the marriage ceremonies strictly according to traditional customs and rites.

In many cases, the Supreme Court has declared Hindu marriages illegal because all the rituals were not performed in those cases. All the rituals of Hindu marriage do not apply to the whole of Hindu population. There is discrimination against Scheduled Castes and down-trodden in the matter of these rituals. Before acceding to the demand of a uniform civil code it is imperative to make general laws applicable to all Hindus.

Therefore, the proposed amendment provides for uniform rituals in the matter of marriage of all the Hindus. The proposed rituals are acceptable to all and free of ostentation. There is no need of any priest or mediator for performing these rituals. The need for such amendments in the Hindu marriage Law is being felt for a long time. The presence of witnesses is being made compulsory to enhance the authenticity of the marriage. Provision is being made for a certificate duly signed by the bridegroom and the bride as well as the witnesses so that marriage controversies could be reduced and secret and forced marriages could be stopped.

First of all a great revolutionary and social reformer Shri E. V. Ramaswamy Periar had started the ideal system of marriages in Tamil Nadu. In northern India also "Sarita", a fortnightly, started a respectable marriage system. Arjak marriage system, Minority-Harijan-Backward Class, B.M.S. Organisation's Hindu Marriage system was also introduced but no legal shape could be given to the marriages performed under these systems. In the year 1968 the erstwhile Government of Tamil Nadu passed an amendment to the Hindu Marriage Act, 1955 which provided for the ideal marriage. In the year 1971, Pondicherry Legislative Assembly also passed similar Bill. Thus, the ideal marriage was duly legalised in Tamil Nadu and Pondicherry.

The Indian Constitution has entrusted upon the Union Government the responsibility to frame uniform civil code for all citizens of the country. Uniform Civil Code has become a distant dream due to opposition by certain groups. Therefore, in these circumstances, it is necessary to amend the Hindu Marriage Act, 1955 and take such immediate steps whereby marriage ceremony may be solemnised, without priest, simply by garlanding and exchanging rings with each other. The proposed amendment will encourage those people who seek social change, social unity and development.

BILL No. 135 OF 1992

A Bill to provide for the establishment of a permanent Bench of the High Court of Madhya Pradesh at Raipur.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the High Court of Madhya Pradesh (Establishment of a permanent Bench at Raipur) Act, 1992.

Short title.

2. There shall be established a permanent Bench of the High Court of Madhya Pradesh at Raipur and such number of Judges of the High Court of Madhya Pradesh, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Raipur in order to exercise the jurisdiction and power for the time being vested in the High Court in respect of cases arising in the districts of Raipur, Bilaspur and Jagdalpur.

Establish-
ment of
a perma-
nent
Bench
of the
High
Court of
Madhya
Pradesh at
Raipur.

STATEMENT OF OBJECTS AND REASONS

There has been a persistent demand for the setting up of a permanent Bench of the High Court of Madhya Pradesh at Raipur.

Raipur is connected with the prominent parts of the State of Madhya Pradesh by rail, road and air services. All types of facilities like transport, communication, etc. are available here. In the interest of administration of cheap justice and for the convenience of the people of Chattisgarh area, which includes Raipur and its neighbouring districts, it is necessary that a Bench of the High Court of Madhya Pradesh be established at Raipur.

The Bill seeks to achieve the above objective.

NEW DELHI;

July 10 1992.

LAXMINARAIN PANDEY.

BILL No. 134 OF 1992

A Bill to provide for reservation of posts for women in Government Services and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Reservation of Posts for Women (In Government services) Act, 1992.

Short title,
extent
and
com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “appropriate Government” means the Central Government or the State Government, as the case may be; and

(b) “Government service” means service in connection with the affairs of the union or of any State.

Reser-
vation
of posts
in Gov-
ernment
services
for
women.

3. (1) The appropriate Government shall reserve posts in Government services for women.

(2) The number of posts reserved for women in any Government service in connection with affairs of the Union shall bear, as nearly may be, the same proportion to the total number of posts in Government services as the population of women in the country bears to the total population of the country.

(3) The number of posts reserved for women in any Government service in connection with the affairs of any State shall bear, as nearly as may be, the same proportion to the total number of posts in Government services of a State as the population of women in that State bears to the total population of the State.

Provi-
sions
of the
Act not
to apply
to cer-
tain Go-
vern-
ment
services.

4. The provisions of this Act shall not apply to such Government services as Parliament may by law provide.

Applica-
tion of
other
laws not
barred.

5. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make
rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

STATEMENT OF OBJECTS AND REASONS

Although the Constitution of India guarantees equality both for men and women, yet women are not considered equal to men. Women, as a class, are still socially neglected, economically weaker and educationally backward. Great efforts are being made to remove their sufferings and necessary steps are being taken to encourage the participation of women in the educational field.

The rate of literacy among women is about forty per cent. Provisional data indicates that in March 1989 the total number of employees in the organised sector was one hundred and ninety five lakhs out of which the number of women employees was only thirty five lakhs i.e. only nineteen per cent. of the total employees. In 1990, employment exchanges provided employment to two lakh and sixty four thousand persons, out of which only fifty thousand and six hundred were women, which comes to about twenty per cent of the total number of jobs provided through employment exchanges.

It is evident from the above that the representation of women in administration is restricted to about twenty per cent only. So, they do not have equal or even sufficient representation in the administration. This is discriminatory and is violative of the principles of social justice and human rights.

The number of women, as compared to the men, is very less in administration and in the organised sector. Under these circumstances, it is necessary to make a law to provide for reservation of posts for women in Government services.

Hence this Bill.

NEW DELHI;
July 13, 1992.

BHAVNA CHIKHALIA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. As the rules will relate to the matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 145 OF 1992

A Bill further to amend the Monuments and Archaeological Sites and Remains Act, 1958.

BE it enacted by Parliament in the Forty-third year of the Republic of India as follows:—

1. This Act may be called the Ancient Monuments and Archaeological Sites and Remains (Amendment) Act, 1992. Short title.
2. In section 5 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958,— Amend-
ment of
section 5.
 - (i) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Nothing in this section shall detract the Director-General from his duty and responsibility to protect the sanctity of a place of worship declared to be a protected monument and for the time being placed under his guardianship and to regulate accordingly access by the public, or its care and maintenance by his staff.”;
 - (ii) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Nothing in this section shall affect the freedom of worship in any protected monument which is or has been a place of worship or bar resumption of religious observance therein, at the request of the members of the religious community concerned living within one kilometre radius of the monument:

Provided that such observance does not entail any constructional alteration which could affect the architectural, historical or aesthetical character or value of the monument.”.

STATEMENT OF OBJECTS AND REASONS

Many places of worship and shrines throughout the country which are of historic value have been declared as protected monuments. Many of them are under active use as a place of worship. Some of them which are at present not in such use are under demand for the resumption of religious observance. Since the very purpose of the construction of such places of worship was religious observance, in principle, freedom of religious worship must be guaranteed. At present, it is being obstructed by the Department of Archaeology on the ground that at the time of notification such monuments were not in active service. This is a mistaken view which has caused unnecessary controversy. However in order to maintain the architectural, historical and aesthetical character of the monument, while giving due consideration to the request of the religious community concerned to perform worship in such monuments, it should be laid down that such arrangement is subject to the preservation of its architectural, historical and aesthetical character.

Because of paucity of resources many such places of worship are not receiving much care. In fact visitors enter them with their shoes on and sometimes they even become dens for anti-social or frivolous activities which detract from sacred character of the premises. It should be the responsibility of the Department of Archaeology to protect the sanctity of the place of worship and to regulate access and to employ staff accordingly.

Hence this Bill.

NEW DELHI;
July 13, 1992.

SYED SHAHABUDDIN

BILL No. 147 of 1992

A Bill further to amend the Foreigners Act, 1946.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Foreigners (Amendment) Act, 1992.

Short title.

2. In section 9 of the Foreigners Act, 1946, for the portion beginning with the words "the onus of proving" and ending with the words "lie upon such person" the following shall be substituted, namely:—

Amend-
ment of
Section 9.

"the onus of proving that such person is a foreigner or is a foreigner of such particular class or description, as the case may be, shall lie upon the authority making such order or giving such direction under this Act".

31 of 1946.

STATEMENT OF OBJECTS AND REASONS

Section 9 of the Foreigners Act, 1946, in deliberate deviation from the Indian Evidence Act, 1872, places the burden of proof of citizenship on the person who is alleged to be a foreigner but who claims to be a citizen. This is contrary to the principles of natural justice and the normal rules of evidence.

This has in practice led to harassment and persecution of many citizens, opened the doors for arbitrary action and consequent corruption. This has caused hardship to the illiterate sections of our people. This provision is therefore, against public interest.

It is strongly felt that no authority empowered under the Act should give a direction or pass an order under the Act declaring a person to be a foreigner or a foreigner of a particular class or description, until the authority so empowered has fully satisfied itself regarding the facts of the case on the basis of supporting evidence which would stand judicial scrutiny, so that he is in a position to justify his conclusion and action in any judicial or quasi-judicial proceeding that may arise. In brief, the burden of proof should lie on the accuser and not on the accused.

Hence this Bill.

NEW DELHI;

July 19, 1992.

SYED SHAHABUDDIN

Bill No. 158 of 1992

A Bill to provide for the compulsory use of Hindi language and one other Indian language in all commercial advertisements and on packages of consumer goods and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Use of Indian Languages in Commercial Advertisements and on Packages of Consumer Goods Act, 1992.

Short title.

2. Notwithstanding anything contained in any other law for the time being in force, all matter, which is handwritten, printed, or otherwise,—

Compulsory use of Indian languages in commercial advertisements, etc.

(a) for the purpose of promotion or publicity of business, commerce, trade, industry or any other related field;

(b) on every packed article of food, drink, cosmetic, drug or on any other packed article, which is meant for human use; and

(c) giving the brand name, and other details about the product, which is not packed.

shall be in Hindi language in Devanagari script and in one other Indian language specified in the Eighth Schedule to the Constitution of India:

Provided that if the matter is to be displayed in any foreign language, the matter in that language shall be displayed below the matter in the Hindi language and the recognised Indian language.

3. (1) Whoever violates or abets in violating the provisions of section 2 shall be punishable with imprisonment which shall not be less than six months but which may extend to one year, or with fine which may extend to one year, or with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees, or with both.

(2) Whoever having already been convicted under sub-section (1) is again convicted of any such offence or abetment, shall, on conviction, be punishable, for the second offence or any offence subsequent to the second offence, with imprisonment which shall not be less than one year but which may extend to two years, and also with fine which shall not be less than four thousand rupees but which may extend to ten thousand rupees.

STATEMENT OF OBJECTS AND REASONS

Even after forty-five years of independence of the country, Indian languages have not found a place, they deserve. It is irony of fate that although our Constitution recognises eighteen languages, most of the commercial and educational work of the Government is done in a foreign language, i.e., in English. It has become our mentality that we cannot carry out our work properly without the use of English language. Every commercial company takes pride in getting its labels, advertisements, etc., printed in English language.

The Bill is being brought forward with the sole objective of increasing propagation and promotion of Indian languages in place of English language and thereby promoting nationalism and self-pride by removing the illusion and mental slavery of English language.

NEW DELHI;
July 13, 1992.

LAL BAHADUR RAWAL.

BILL NO. 137 OF 1992

A Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1992.

(2) It shall be deemed to have come into force on the 8th day of July, 1992.

**Amend-
ment of
section
3.**

2. In section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, the following proviso shall be added at the end, namely:—

30 of 1954.

“Provided that if a House of Parliament is adjourned for the day due to pandemonium in the House and no business could be transacted on that day, the provision of this section as regards daily allowance in respect of that day shall not apply.”

STATEMENT OF OBJECTS AND REASONS

It has been observed that on a number of occasions in the past, the members of either House have rushed to the well of the House shouting slogans and declaring that they would not permit the business of the House to run unless the demands raised by them are accepted. The Houses of Parliament had to be adjourned on the ground that no business could be transacted in an orderly manner. This is not in consonance with the healthy democratic principles of running the Parliament. That being so, it is desirable that when no business is transacted because of the pandemonium in the House, the members should not draw the daily allowance for that day.

As the two Houses of Parliament assembled for the monsoon session on 8th July, 1992, it is intended to give effect to the provisions of the Bill from that date.

Hence this Bill.

NEW DELHI;
July 20, 1992.

PAWAN KUMAR BANSAL

Bill No. 157 OF 1992

A Bill further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title
and
commen-
cement.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substi-
tution
of new
section
for
section
125.

2. For section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

“125. (1) If any person neglects or refuses to maintain—

- (a) his wife, unable to maintain herself, or
- (b) his legitimate or illegitimate minor child, unable to maintain itself, or
- (c) his legitimate or illegitimate child who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or
- (d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance or lumpsum payment of amount, as the case may be, for the maintenance of his wife or such child, father or mother, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

*Explanation.—*For the purposes of this chapter,—

9 of 1875.

(a) “minor” means a person who, under the provisions of the Indian Majority Act, 1875 is deemed not to have attained his majority;

(b) “wife” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried and also includes a woman who has been living with the respondent as a wife in the same household;

(c) the expression “unable to maintain herself” means a woman with her present actual separate income, if any, and the possibility or potentiality of the wife being able to earn for herself in future by securing an employment or otherwise shall not be taken into consideration.

(2) such allowance shall be payable from the date of the application for maintenance.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of such month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made.

(4) In determining the amount of monthly allowance or lumpsum amount for the maintenance of a person, the Magistrate shall take into account the following factors, namely:—

Order
for
main-
ten-
ance of
wives,
child-
ren and
parents.

(a) the income earning capacity, property including interest in joint family property, and other financial resources which the person against whom an order of maintenance is sought has, or is likely to have in the future;

(b) the standard of living enjoyed by the family prior to the date of application for maintenance;

(c) the age of each party and the duration of the marriage;

(d) any physical or mental disability of either of the parties;

(e) the contribution made by the wife in looking after the house or caring for the family;

(f) the financial needs of the child/children and the manner in which the child/children were being brought up and the manner in which the parties expected him/them to be educated and trained;

(g) the liability or expenses incurred by the applicant before the order for maintenance is passed;

(h) any other matter which in the circumstances of the case, the Court may consider relevant.

(5) Immediately after the filing of an application for maintenance under this section, the Court shall have the power to make an order directing the respondent to pay to the applicant such monthly sum or periodical payment as the Court may think fit during the pendency of petition.

(6) While passing an order under sub-section (5), the Court shall have the power to—

(a) direct a person liable to pay maintenance to deposit such amount in advance as the Court may think fit after taking into account the facts and circumstances of the case;

(b) direct the employer of the person liable to pay maintenance to deduct from the salary of such person such monthly sum as it may determine and to deposit the same in the Court within the period prescribed by the Court.

(7) The amount of monthly or lumpsum maintenance ordered to be paid under the provisions of this section shall be a charge on the properties of the person against whom the order has been passed.

(8) An order for payment of monthly allowance, or lumpsum amount, as the case may be, as maintenance shall not stand discharged except by actual payment or upon a settlement between the parties to the suit and after the Court has recorded that the settlement is fair and voluntary.

(9) An appeal shall lie from any order made by the Court under this section;

Provided that when the appeal is directed against an order awarding maintenance, the appeal shall not be maintainable unless the appellant deposits the maintenance amount payable till the date of filing of the appeal and shall also have to file, alongwith the memorandum, an affidavit averring that amount has been deposited.

3. In section 126 of the principal Act,—

(i) in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

“(d) where the child or the parent resides permanently or is residing temporarily when an application is made by either the child or the parent, as the case may be.”;

(ii) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) when an application for maintenance is filed under sub-section (1) of section 125, reply to the application shall be filed not later than one month of the receipt of summons by the respondent:

Provided that if no reply is filed to the application within one month, the Court may proceed to hear and determine the case *ex parte*.

(2A) All evidence in such proceedings shall be by way of affidavits to be filed within a period of one month from the date of filing of reply by the respondent.

(2B) An application for maintenance filed under sub-section (1) of section 125 shall be disposed of within six months from the date of the application.”.

4. In section 127 of the principal Act, in sub-section (1), the proviso shall be omitted.

Amend-
ment of
section
126.

Amend-
ment of
section
127.

STATEMENT OF OBJECTS AND REASONS

It has become imperative to amend the existing law relating to maintenance as under section 125 of the Code of Criminal Procedure, 1973, the maximum amount of maintenance payable is rupees five hundred per month. This limit was fixed long back and it has no rational basis. The limit has caused great hardship to deserted and abandoned women and children who have to take recourse to the provisions of section 125 of the Code which only embodies the general law of maintenance applicable to all women. The present section also does not lay down any criteria/guidelines on the basis of which the Court should decide on the quantum of maintenance to be awarded. It also does not contain enough safeguards to enforce an order of maintenance. The courts also take a long time in awarding maintenance, thus defeating the very purpose of the law. To plug certain loopholes in the existing law and to provide relief to helpless, deserted wives and children, the amendments to the Code have become necessary.

The Bill seeks to achieve the above objective.

NEW DELHI;

July 24, 1992.

SUSEELA GOPALAN

BILL NO. 148 OF 1992

A Bill further to amend the Aligarh Muslim University Act, 1920.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

40 of 1920.

<p>1. This Act may be called the Aligarh Muslim University (Amendment) Act, 1992.</p> <p>2. In the Aligarh Muslim University Act, 1920 (hereinafter referred to as the principal Act), in section 8, for the words "The University", the words "Without prejudice to the powers of the University as defined under this Act, the University" shall be substituted.</p> <p>3. After section 12 of the principal Act, the following section shall be inserted, namely:—</p> <p>"12A. The University may recognise and affiliate such educational institutions, established and managed by the muslim community anywhere in India, which follows its syllabus and curriculum for the purposes of academic supervision and conduct of examinations, but without undertaking any financial responsibility for their administration and management.",</p>	<p>Short title.</p> <p>Amendment of section 8.</p> <p>Insertion of new section 12A.</p> <p>Power to recognise and affiliate educational institution set up by muslim community.</p>
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Amend-
ment of
section
19.

4. In section 19 of the principal Act, sub-section (3) shall be omitted.

Amend-
ment of
section
23.

5. In section 23 of the principal Act, after sub-section (3) the following sub-section shall be inserted, namely:—

“(4) The Court, in order to exercise its powers and to perform the duties prescribed under the Act, besides holding an annual meeting to consider the annual report and accounts shall hold atleast one more meeting during each academic year.”.

STATEMENT OF OBJECTS AND REASONS

The Aligarh Muslim University Act, 1920 was last amended in 1981. However, certain difficulties have been experienced in applying the amended Act particularly in relation to the functioning of the University Court which has not met on an average even once during each academic year. Difficulty has also been experienced in the exercise of emergent powers by the Vice-Chancellor which has led to centralisation and arbitrariness and deprived the Court, the Executive Council and the Academic Council of the opportunity to play their due role in the decision-making process. Thirdly, for various reasons historical and otherwise, the University should have a substantial majority of muslim students on its roll, so that it may exercise its statutory powers of promoting, especially, the educational and cultural development of the muslim community. Section 8 of the Act, therefore, needs to be modified so as to enable the University authorities to provide a liberal, and if necessary preferential, treatment to muslim students in the matter of admission to the University courses.

Hence this Bill.

NEW DELHI;

SYED SHAHABUDDIN.

August 3, 1992.

BILL No. 150 OF 1992

A Bill further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1992.

**Amend-
ment of
section**

2. In section 2 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971,—

2.

(a) in clause (e), in sub-clause (2),—

(i) in item (vi), the word “and”, occurring at the end, shall be omitted;

(ii) after item (vi), the following item shall be inserted, namely:—

“(vii) any public endowment or trust for charitable purposes or any public wakf; and ”;

(b) in clause (fa),—

(i) in sub-clause (iv), the word “and”, occurring the the end, shall be omitted;

(ii) sub-clause (v) shall be re-numbered as sub-clause (vi), and before sub-clause (vi) as so re-numbered, the following sub-clause shall be inserted, namely:—

“(v) in respect of the public premises referred to in item (vii) of sub-clause (2) of that clause, the Central Government or the State Government, as the case may be, and”.

STATEMENT OF OBJECTS AND REASONS

Throughout the country many immovable properties which are recognised under law and even registered as public wakfs/endowments are under unauthorised occupation. The present procedure for vacating such adverse occupation and for evicting the unauthorised occupants of those premises has proved to be fruitless, even after prolonged litigation. Since no private interest is involved, the statutory body for protecting them is the statutory Board but they are ineffective in many cases and some times dominated by vested interests. All charitable endowments and trusts, whose beneficiary is the public at large, should be protected by the State and, for this purpose, treated at par with public premises. The Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended upto date, brings public property belonging to many public institutions such as Corporations, Port Trusts, Universities, Municipal Corporations, etc. under its purview which are included in the definition of the term 'public premises'.

It is proposed to include public endowment, charitable trusts and public wakfs in the list of 'public premises' as defined under the above Act for the purpose of application of summary procedure for vacation of adverse and illegal occupation of them.

Hence this Bill.

NEW DELHI;

August 3, 1992.

SYED SHAHABUDDIN

BILL No. 154 OF 1992

A Bill to provide for banning capitation fee charged by educational institutions and for matter connected therewith.

Be it enacted by Parliament in the forty-third Year of the Republic of India as follows:—

1. This Act may be called the Prohibition of Capitation Fee Act, 1992. Short title.
2. In this Act, unless the context otherwise requires— Definitions.
 - (a) “appropriate Government” means the Central Government in respect of educational institutions which fall within its jurisdiction and the State Government concerned in respect of those educational institutions which fall within the jurisdiction of that Government;
 - (b) “capitation fee” means and includes a fee or any other consideration charged, in one lump sum or in instalments, directly or indirectly, by an educational institution for giving admission to candidates, exclusive of the prescribed admission or tuition or other fees approved by the educational authorities.

Explanation:—“capitation fee” shall not include donations received by an educational institution from a donor without any condition and the donation is not directly or indirectly related to the admission of any person in that institution;

(c) "educational institution" means and includes any school, college or institute, whether established by the appropriate Government or by any citizen or body of citizens, and whether in receipt of aid from the Government or not, recognised by the appropriate Government for the award of a certificate, diploma or degree in any general, technical, professional or other course of study, education or training.

Institutions not to charge capitation fee.

3. No educational institution shall charge any capitation fee at the time of granting admission to any course of study, education or training for which it has been established or recognised by the competent authority for award of a certificate, diploma or degree, at a later date.

Criteria for giving admission.

4. Admission to an educational institution shall be on the basis of merit save the reservation permitted in accordance with law in favour of persons belonging to the Scheduled Castes, Scheduled Tribes and educationally and socially backward classes and in favour of persons belonging to religious and linguistic minorities in educational institutions of their choice established and administered by them under clause (1) of article 30 of the Constitution:

Provided that selection of persons under the reserved quota from among the eligible candidates shall be on the basis of merit.

Institutions charging capitation fee to be taken over.

5. (1) If any educational institution is found to be charging a capitation fee, the appropriate Government shall take over the institution forthwith by an order published in the Official Gazette:

Provided that if the circumstances so require, the appropriate Government may, without taking over the institution as aforesaid, by order published in the Official Gazette, direct that such an institution shall, in the public interest, be closed down forthwith or be administered in such manner as may be prescribed in the order.

(2) Any order made under sub-section (1) may contain all matters which may be necessary for carrying out the provisions of this Act.

(3) Every order made under this section shall be laid on the Table of each House of Parliament or the legislature of a State, as the case may be.

Punishment for charging capitation fee.

6. Without prejudice to any action which may be taken under section 5, the President and the Secretary of the Managing Committee as well as the head of the educational institution which charges capitation fee shall be punishable with a fine which may extend to rupees fifty thousand or imprisonment for a period of not less than three years or with both.

Application of other laws not barred.

7. The provisions of this Act shall be in addition to and not in derogation of the Universities Grants Commission Act, 1956, or any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

It is now fairly known to everybody that capitation fees are charged for admission of students in institutions of higher learning, particularly in engineering and medical colleges in States like Bihar, Andhra Pradesh, Karnataka, etc. It is alleged that the fees being charged range from Rs. 1.5 lakhs to Rs. 2.5 lakhs. There are reports that private engineering and medical colleges in some States are charging capitation fees of about Rs. 70,000 for a local student and Rs. 1.6 lakhs for outsiders. Many private colleges in some States have been flourishing on the collective income from capitation fees. All measures to stop this evil practice have failed because of patronage enjoyed by the college managements.

The use of large sums of money for securing admissions into any institution of learning, violates the principle of offering equal opportunity to eligible candidates. To guarantee the equal opportunity to all deserving candidates, admissions must be given on the basis of merit alone, subject to the reservations prescribed by laws.

The capitation fee system provides opportunity for clandestine links between politicians and educational institutions which largely accounts for mushroom growth of unauthorised educational institutions, and also for siphoning off black money and legalising it.

The Bill proposes to ban the charging of capitation fee and thereby seeks to do away with the evil practice.

NEW DELHI;
August 7, 1992.

CHITTA BASU

C. K. JAIN,
Secretary-General.

